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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,667	03/29/2004	Derrick Douglas Little	9D-RG-20087 CIP	2435

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EXAMINER

SUERETH, SARAH ELIZABETH

ART UNIT	PAPER NUMBER
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3749

MAIL DATE	DELIVERY MODE
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04/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/811,667	Applicant(s) LITTLE ET AL.	
	Examiner Sarah Suereth	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,10-16,18-22 and 25-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,10-16,18-22 and 25-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Receipt of applicant's amendment filed on 01/29/08 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,3-7,10,11,14-16,18-22,25,26 are rejected under 35 U.S.C. 102(b) as being anticipated by Taplan et al 5653219.

Taplan discloses: a gas burner (3), a cooktop (2) configured to cover a burner box (5) and having at least one peripheral vent cut (8) configured to vent outside air into the burner box to provide air for the gas burner (10 is the air supply, see Figure 1); and a vent trim/cover member (15) attached to said cooktop and covering the vent cut (Figure 6a), said vent trim having a surface with openings above a top surface of the cooktop (col. 2, lines 41, 42), wherein said openings are configured to allow outside air to enter the vent cut through the vent trim (col. 2, line 49).

The vent cover also has a raised surface isolating the vent opening from spills on the cooktop (col. 1, lines 49-51).

The portions of element 15 in Figure 6a that are horizontally oriented are read as the claimed clip(s) (claim 1) or lip (claims 10,25).

The small diagonal pieces shown in Figures 6b and 6c that serve to join element 16 to the top surface of the cooktop are regarded as the attachment portion(claim 1)/tab (claims 10,25), and the top surface of element 16 including the perforations is regarded as the vent portion.

Regarding claims 3, 8,14,29 and 18, the vent trim is sealed in water-tight engagement (col. 1, lines 48).

Regarding claims 4,15,30 and 19, the seal is adhesive tape (col. 2, line 64).

Regarding claims 6,7, 11,17, 21 and 22, the vent extends along an entire side, so the vent cut necessarily includes two corners of the cooktop.

Claim Rejections - 35 USC § 103

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 12,13 and 27,28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taplan et al 5653219 in view of Kahlke 6067980.

6. As discussed above, Taplan shows one vent cut located alongside the entire edge of the cooktop, not a vent cut only in a portion of the cooktop edge.

7. Kahlke discloses a similar cooktop vent cover (2b), and teaches that the vent cut (8a) could extend alongside the entire cooktop edge (Fig. 6) or could extend as claimed by applicant (Fig. 4). Kahlke explains that the vent configurations can be varied in order to suit the kitchen's design requirements or customer tastes (col. 3, lines 32-42).

8. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Taplan apparatus by choosing a vent opening extending alongside only part of the cooktop surface as a matter of obvious design choice, to satisfy the kitchen's design requirements (col. 3, lines 32-42).

9. Regarding claims 13 and 28, the courts have held that duplication of parts for amplified effect does not distinguish over the prior art (*In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960), also MPEP 2144.04 B).

10. In the instant case, the amplified effect would be introducing a larger volume of air into the burner box.

Response to Arguments

11. Applicant's arguments with respect to the claims have been considered but are not found persuasive.

12. Applicant argues that Taplan '219 does not have an attachment portion as required by the independent claims. However, as indicated previously in the rejection, the small diagonal fixation members shown in Figure 6b and 6c serve to fix the vent in place, and contact the top surface of the stove.

13. Applicant's other arguments are moot in view of the new grounds of rejection.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah Suereth whose telephone number is (571)272-9061. The examiner can normally be reached on Mondays & Tuesdays 8:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on (571) 272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Sarah Suereth/
Examiner, Art Unit 3749

/Steven B. McAllister/
Supervisory Patent Examiner, Art Unit 3749